

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 16-3267(DSD/TNL)

Earl A. Fry,

Petitioner,

v.

ORDER

Red Wing Correctional,
Red Wing, MN,

Respondent.

This matter is before the court upon the report and recommendation of Magistrate Judge Tony N. Leung dated December 8, 2016 (R&R). The magistrate judge recommended that (1) the petition for habeas corpus be dismissed without prejudice; (2) the motion to appoint counsel be denied; and (3) no certificate of appealability be issued. No objections to the R&R have been filed in the time period permitted. Under these circumstances, the court finds it appropriate adopt the R&R.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The R&R [ECF No. 8] is adopted in its entirety;
2. The petition for habeas corpus [ECF No. 1] is dismissed without prejudice;
3. The motion to appoint counsel [ECF No. 5] is denied; and
4. No certificate of appealability will be issued.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 3, 2017

s/David S. Doty
David S. Doty, Judge
United States District Court